

REMARKS

Claims 1-3, 5-15, 27, 28, 30 and 32-34, 36, and 39-46 are pending. It is understood that claim 46 has been withdrawn from consideration at this time as being directed to non-elected subject matter.

I. Personal Interview

Applicants thank the Examiner for the Personal Interview of June 3, 2004, at which the various rejections and objections were discussed.

As suggested by the Examiner, claim 46 has merely been withdrawn. Since claim 46 depends from a generic claim, the Examiner recommended not cancelling claim 46. When the generic claim is determined to be allowable, the Examiner indicated he would likely consider claim 46 under 35 CFR § 1.141.

During the Personal Interview, the Examiner implied that claim 1 was unclear, as neither the specification nor claims specified in the “surface formed of a thermosetting resin and a decor sheet,” the resin is distal or proximal of the decor sheet. In response, Applicants assert that the claims read on either configuration, as well as other configurations, for example, the thermosetting resin could be impregnated in the decor sheet. That is to say, the claim is not limited to any structure other than having “a “surface formed of a thermosetting resin and a decor sheet.”

II. Specification and Drawing Amendments

The drawings and specification have been amended to identify where on the molding, the “surface formed of a thermosetting resin and a decor sheet” is located. Specifically, Fig. 1 now shows the surface at element 20A.

III. Santarossa in view of Margarit

Claims 1,2, 9, 10, 13, 15, 36, 37, 39, 40, 44 and 45 stand rejected under 35 USC § 103(a) as allegedly being unpatentable over Santarossa (U.S. Patent No. 6,253,510) in view of Margarit (U.S. Patent No. 5,979,132). The Office Action asserts Santarossa teaches each feature recited

by the rejected claims except for “the core formed from compressed wood particles and a binder therefor,” for which purpose Margarit is solely cited. As explained in detail at the Personal Interview, Applicants respectfully disagree.

Claim 1 recites:

1. A molding for positioning along a corner formed by an intersection of wall and a floating floor, the molding having a longitudinal axis and comprising a core formed from compressed wood particles and a binder therefor; and, a surface formed of a thermosetting resin and a decor sheet; said molding having a generally planar floating floor engaging surface and a wall-engaging surface, positioned substantially perpendicular to the floating floor engaging surface; a resilient pad coupled to the floating-floor engaging surface, the pad formed of a material different from the core; wherein, the pad resiliently creates a substantially moisture-tight seal so as to prevent moisture from seeping between said floor and said molding when the molding is in an installed position.

A. “a surface formed of a thermosetting resin and a decor sheet”

Applicants respectfully present that Santarossa fails to teach or suggest “a surface formed of a thermosetting resin and a decor sheet.” The Office Action asserts that such a feature is met by Santarossa at column 3, lines 1-10, i.e., “hard granular particles, such a silica sand, suspended in an acrylic matrix” or “a finish coating of powdered gypsum [i.e., plaster] also suspended in a liquid acrylic matrix.” However, neither of these structures is either a thermosetting resin or a decor sheet.

B. “a resilient pad coupled to the floating-floor engaging surface, the pad formed of a material different from the core”

Applicants respectfully present that Santarossa fails to teach or suggest “a resilient pad coupled to the floating-floor engaging surface.” The Office Action asserts “elongate mounting face 10” of the reference is such a resilient pad. However, this face is not described as being resilient. Rather, this face is an outer surface of surface 9, which wraps around core 6, and as such, cannot be resilient.

IV. Santarossa in view of Margarit in further view of DeGraan

Claims 3 and 5-8 stand rejected under 35 USC § 103(a) as allegedly being unpatentable over Santarossa in view of Margarit in further view of DeGraan (U.S. Patent No. 4,655,009). The Office Action asserts the combination of Santarossa and Margarit (as applied to claim 1) teaches each feature of the rejected claims, except for “the molding having a wall engaging surface with apertures therein to allow a connector to pass therethrough.” However, as DeGraan fails to cure the deficiencies of Santarossa and Margarit as discussed above, Applicant respectfully submits that a prima facie case of obviousness has not been established.

V. Keith in view of Margarit (and Madonia et al.)

Claims 1, 2, 11, 36, 37, 39 and 40 stand rejected under 35 USC § 103(a) as allegedly being unpatentable over Keith (U.S. Patent No. 3,982,780) in view of Margarit, as do claims 27, 28, 30 32-34, and 41-43, while claim 14 stands rejected as allegedly being unpatentable over Keith in view of Margarit and Madonia et al. Again, the Office Action asserts that Keith teaches each feature of the rejected claims, except for the core being formed from compressed wood particles and a binder therefor. Reconsideration is respectfully requested.

A. Keith is non-analogous art.

Applicant respectfully submits that Keith is non-analogous art. As set forth by MPEP § 2141.01(a), analogous art must “be in the field of applicant’s endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned.” (citing In re Oetiker, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992), In re Deminski, 796 F.2d 436, 230 USPQ 313 (Fed. Cir. 1986); In re Clay, 966 F.2d 656, 659, 23 USPQ2d 1058, 1060-61 (Fed. Cir. 1992), and Wang Laboratories Inc. v. Toshiba Corp., 993 F.2d 858, 26 USPQ2d 1767 (Fed. Cir. 1993).

Although the device of Keith is a “molding” per se, such a “molding” is quite distinct from the presently recited molding, in both structure and function. As described throughout the reference, the molding of Keith is an aesthetic trim for the exterior of a motor vehicle, for example on the outside of a car door. This molding may also serve to protect the vehicle door

from small impacts, such as from an opening of a door on close-by vehicle. The problems addressed by the invention of Keith include 1) adherence to the car door; 2) non-linear door surfaces to which the molding is attached; as well as 3) weather resistance.

In contrast, the present invention addresses NONE of these problems. While the “molding” of the present invention provides an aesthetic appearance, its primary purpose is to cover a joint between a wall and a floating floor, primarily by creating a moisture-resistant seal between the wall and the floor.

Thus, because a vehicle trim is neither in the same field of art as a molding between a floating floor and a wall, and such a vehicle trim cannot help to solve the problem of moisture passing between a wall and an adjacent floating floor, Applicant respectfully presents that Keith is not analogous art.

- B. Neither Keith nor Margarit provide the requisite motivation to make the modification, and such a modification would defeat the purpose of the device of Keith

Applicant respectfully presents that neither of the references provides the motivation to modify Keith as suggested by the Office Action, i.e., replacing the plastic body of the vehicle side trim of Keith with high density fiber board (HDF).

The Office Action states that one of ordinary skill in the art would desire to make the substitution because 1) “having the core being formed from compressed wood particles and a binder would enable a material cost saving per the availability of cheap wood particles and binder,” and 2) such a construction “also enables easy forming of a variety of shapes and sizes of the molding as it requires only the change in the size and shape of the die.”

However, neither of the alleged motivations can be found in the cited references. The Office Action appears to be relying on information not present in the cited references. For example, the only discussions of any type of woody product can be found at column 1, lines 24-25 and 55; column 2, lines 3-5, 23-25, and 30-31, and such disclosures provide none of the information upon which the Office Action states is the motivation for forming the vehicle trim of Keith out of compressed wood particles and a binder.

C. Modifying Keith by forming the vehicle trim of compressed wood particles and a binder therefor would defeat the purpose of the device.

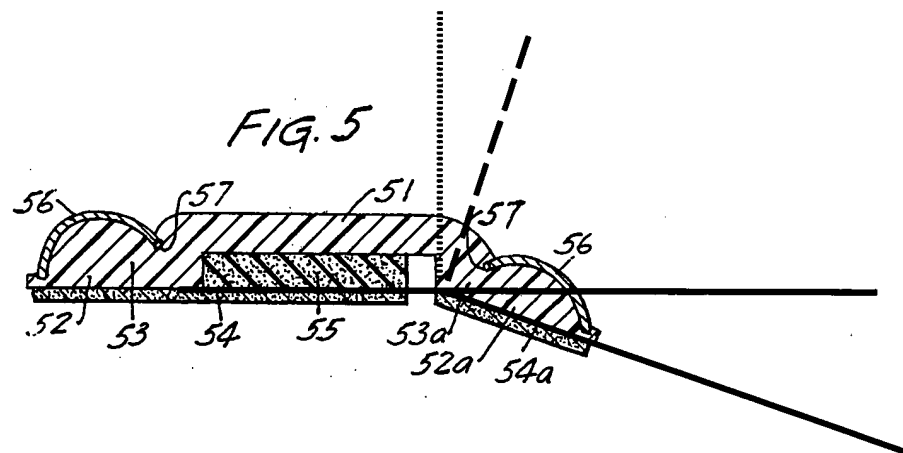
If the device of Keith were modified to have a core of compressed wood particles and a binder therefor, the primary purpose of the device of Keith would be defeated. Specifically, Keith is a trim molding for the outside of a motor vehicle. As discussed throughout the reference, the trim is formed from weather resistant plastic (column 1, line 10 and 17-20), as it needs stand up to normal atmospheric conditions, e.g., high humidity and rain. Because the trim is constructed of a tough, weather resistant plastic, it can maintain its shape and integrity on the outside of a motor vehicle.

However, if the device shown in Fig. 5 (the disclosure asserted against the present claims) were formed of compressed wood particles and a binder therefor, it would not function as desired. Initially, as described in the present specification and commonly known in the art, exposed fiberboard absorbs water and can lead to a loss of structural integrity unless the fiberboard is sealed from moisture. If the structure of Fig. 5 were constructed of HDF, the exposed surface, i.e., the upper area between the decorative foils 56, would certainly absorb moisture from the atmosphere and rain. As a result, the vehicle trim would warp and disintegrate, requiring frequent replacement.

Thus, even if the article of Keith were in the same field as the moldings of the present claims, one of ordinary skill in the art would not substitute the plastic core of Keith with a core of wood particles and a binder therefor.

- D. “said molding having a generally planar floating floor engaging surface and a wall-engaging surface, positioned substantially perpendicular to the floating floor engaging surface”

Keith additionally fails to teach the features asserted by the Office Action. For example, the alleged floor-engaging and wall engaging surfaces are not “substantially perpendicular.” The Office Action points to Fig. 5, and identifies the floor engaging surface as the bottom of element 51 and the wall engaging surface as 52a. However, elements 51 and 52a are not substantially perpendicular. As described at column 4, lines 1-3, the angle is approximately 18° (as shown by the solid lines). If then, the wall-engaging surface were rotated 90° (shown by the dashed line, the angle would still not reach perpendicular (dotted line).



VI. Conclusion

In view of the above, it is respectfully submitted that all objections and rejections are overcome. Thus, a Notice of Allowance is respectfully requested.

Respectfully submitted,



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